

INITIAL STATEMENT OF REASONS

These provisions amend procedures governing inmate direct order restitution collection. They were necessarily established to interpret and make specific Penal Code Section 2085.5, as amended by Assembly Bill 876 which became effective January 1, 1995. These provisions allow the Director of Corrections to deduct 20 percent or the balance owing on the direct order of restitution amount, whichever is less, not only from inmates' wages, but also from their trust account deposits. The provisions have regulatory effect and have been adopted as regulations.

The regulations are established on behalf of crime victims seeking reimbursement for actual expenses which incurred as a direct result of crime, as ordered by the sentencing judge, coupled with assurance that offenders are held accountable for their actions. By modifying the procedures to allow the deduction of direct orders of restitution from inmates' trust account deposits and wages, crime victims will be reimbursed for their actual losses. With these expanded revenue resources, the State of California enhances its legal and moral obligation to assist crime victims in obtaining financial compensation for their eligible financial losses as a result of a crime.

These provisions also establish that 10 percent of the 20 percent restitution deduction shall also be deducted from all inmate wages and trust account deposits for a maximum of a 22 percent deduction to reimburse departmental administrative costs. For example, if the total court-ordered direct order of restitution to a victim is \$1,000, and the inmate receives \$100 from a family member, then CDC may deduct 20 percent of the \$100, or \$20. Of that \$20 deduction, a 10 percent administrative fee shall be added which would equal \$2, for a total deduction of \$22, or 22 percent of the initial \$100 deposit. Any amounts deducted from either the inmates' wages or trust account deposits, not including the administrative fee, shall be credited against the court-ordered direct order of restitution until it is paid in full.

These provisions also indicate the funds or deposits which are exempt from restitution and administrative fee deductions. Currently, the Joint Venture Program is designed independently and makes provisions for restitution deductions per Penal Code Section 2717.8. Family visit funds sent to the institutions are exempt from direct order restitution deductions (Per Penal Code Section 2085.5(l) because it would place a financial hardship on families since the funds sent in are used for food during visitations by family members of the inmate. Temporary Community Leave funds are exempt from direct order of restitution deductions because it would also be a hardship on the family members of the inmate.

New Section 3097(a) is amended to establish that direct orders of restitution imposed by a court may be deducted from the inmate's trust account deposits and wages. This amendment also allows CDC to deduct a 10 percent administrative fee from the inmate's trust account deposits and wages to reimburse CDC for departmental administrative costs associated with the collections. This is necessary to be in compliance with Penal Code Section 2085.5.

Old Section (a) is amended to New Section 3097(b). This is necessary for clarification regarding the administrative fee for fine collections.

New Section 3097(c) is amended to establish that when an inmate owes both a direct order of restitution and a fine, that CDC shall collect the direct order(s) first until paid in full. Upon satisfaction of all direct orders, CDC shall commence collection of outstanding restitution fines. This is necessary to be in compliance with Penal Code Section 2085.5.

Old Section (b) is amended to New Section 3097(d) to include direct orders of restitution. This section also repeals language that addresses PVTRCs exempt from restitution deduction. These amendments are necessary to meet the needs of the Department. This is also necessary to be in compliance with Penal Code Section 2085.5.

New Section 3097(e) is amended to relocate language from New Section 3097(d) and to include direct orders of restitution. Additionally, verbiage is included to specifically identify the sole Substance Abuse Treatment Unit that does collect restitution. This is necessary for clarity and to meet the needs of the Department.

Old Section (c) is amended to Section 3097(f) to remove the verbiage that limits collections to restitution fines, therefore allowing deductions for both fines and direct orders of restitution. This is necessary to be in compliance with Penal Code Section 2085.5.

Old Section (d) is amended to New Section 3097(g) and describes those sections exempt from restitution. This is necessary for clarity.

Old Section (e) is amended to New Section 3097(h) to include both sections (a) and (b) which now address both direct orders of restitution and fines, respectively. This is necessary for clarity and to be in compliance with Penal Code Section 2085.5.

Old Section (f) is amended to New Section (i) which is necessary for clarity.

Old Section (g) is amended to New Section 3097(j) which is necessary for clarity.

ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California. This will not result in the elimination of existing businesses, or create or expand businesses in the State of California

This action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, federal funding to the State, or private persons. It is also determined that the action does not affect small businesses nor have a significant adverse impact on businesses, small businesses, including the ability of California businesses to compete with businesses in other state, because they are not affected by the internal management of State prisons, or housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561.

DETERMINATION:

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.